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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/733,307	12/12/2003	Tsutomu Muraoka	SN-US025011A	7330

22919 7590 03/15/2005

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WASHINGTON, DC 20036-2680

EXAMINER
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LUONG, VINH

ART UNIT	PAPER NUMBER
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3682

DATE MAILED: 03/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/733,307

Applicant(s)

MURAOKA ET AL.

Examiner

Vinh T Luong

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 29-37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 29-37 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.


**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

  
Vinh T. Luong  
Primary Examiner

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☒ Other: Attachment.

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1. The Amendment filed on February 10, 2005 has been entered.
2. Applicant's election without traverse of the species of Figs. 27 and 28 in the reply filed on November 17, 2004 is acknowledged.
3. No claim is withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on November 17, 2004.
4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
5. Claims 29-33 and 35-37 are rejected under 35 U.S.C. 102(b) as being anticipated by Date (Japanese Utility Model No. 5-319350).

Regarding claim 29, Date teaches a bicycle pedal comprising:

a pedal shaft 5 having a first end (see Attachment) adapted to be coupled to a bicycle crank and a second end (Att.) with a center rotation axis (Att.) extending between said first and second ends;

a pedal body 1, q rotatably coupled to said second end (Att.) of said pedal shaft 5 about said center rotation axis (Att.) of said pedal shaft 5, said pedal body 1, q having a front end (Att.) and a rear end (Att.) with said front end (Att.) of said pedal body 1, q being configured and arranged to include a sole guide portion 2 that assists in rotating said pedal body 1, q about said pedal shaft 5, said sole guide portion 2 including a pair of laterally spaced projections (Att.) located on a forwardly facing tip surface of said pedal body 1, q that define a sole receiving recess (Att.) in an area disposed laterally therebetween and aligned with said projections (Att.);  
and

a cleat engagement mechanism 3, 2 coupled to an upper surface of said pedal body 1, q.

Regarding claim 30, said cleat engagement mechanism 3, 2 includes a front clamping member 2 (Fig. 7) coupled to said front end of said pedal body 1, q and a rear clamping member 3 (Figs. 8 and 9) movably coupled to said rear end of said pedal body 1, q.

Regarding claim 31, said front clamping member 2 includes a downwardly facing front cleat engagement surface (Att.) disposed in a first plane (Att.), and said rear clamping member 3 includes a downwardly facing rear cleat engagement surface (Att.) disposed in a second plane (Att.) that is offset from said first plane (Att.) of said front cleat engagement surface 2 as best seen in Figs. 2 and 10.

Regarding claim 32, said front clamping member 2 includes a rearwardly facing front pedal control surface (Att.), said rear clamping member 3 includes a forwardly facing rear pedal control surface (Att.).

Regarding claim 33, said front and rear cleat engagement surfaces (Att.) are *substantially* parallel as seen in, e.g., Figs. 2 and 10.

Regarding claim 35, said front clamping member 2 is non-movably coupled to said pedal body 1, q.

Regarding claim 36, said front clamping member 2 is integrally formed with a pedal main body 1 as a one-piece, unitary member.

Regarding claim 37, said rear clamping member 3 is pivotally coupled to said pedal body 1, q.

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6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over Date.

Date's first plane (Fig. 10 of Att.) of the front cleat engagement surface 2 is farther to the center rotation axis (Att.) than the second plane (Att.) of the rear cleat engagement surface (Att.) as measured in a direction perpendicular to the first and second planes (Att.).

It is common knowledge in the art to reverse or rearrange Date's first plane of the front cleat engagement surface such that it is closer to the center rotation axis than the second plane of the rear cleat engagement surface as measured in a direction perpendicular to the first and second planes in order to couple Date's cleat to Date's pedal. To rearrange Date's first plane such that it is closer or farther to the center rotation axis than Date's second plane would have been an obvious choice in design because the claimed structure and the function it performs are the same as the prior art. *In re Chu*, 66 F.3d 292, 36 USPQ2d 1089 (Fed. Cir. 1995). See also legal precedents regarding rearrangement of parts in MPEP 2144.04. Moreover, the first plane of the

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front cleat engagement surface which is closer to the center rotation axis than the second plane of the rear cleat engagement surface as measured in a direction perpendicular to the first and second planes is notoriously well known in the art as evidenced by the art cited (see, e.g., US Patent No. 4,928,549 issued to Nagano and US Patent No. 5,778,739 issued to Takahama).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to rearrange Date's first plane such that it is closer instead of being farther to the center rotation axis than Date's second plane in order to couple the cleat to the pedal as taught or suggested by common knowledge in the art.

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Schilgen (recess in Fig. 2), Scherff (projections E'), Stevens (projections 5<sup>c</sup>), Trindle (recess 38), and Bidal (projections 6a and 6b).

10. Applicant's arguments filed February 10, 2005 have been fully considered but they are not persuasive.

Applicant's arguments with respect to claims 29-37 have been considered but are moot in view of the new ground(s) of rejection.

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period

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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vinh T. Luong whose telephone number is 703-308-3221. The examiner can normally be reached on Tuesday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bucci can be reached on 703-308-3668. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Luong

March 8, 2005

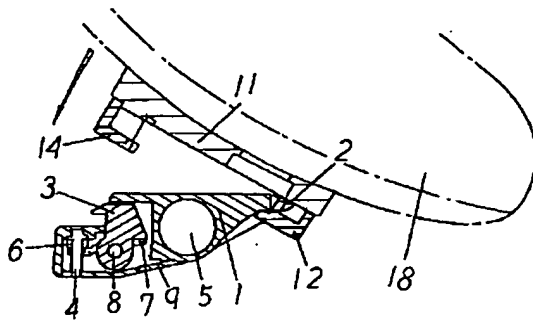


Vinh T. Luong  
Primary Examiner

# **ATTACHMENT**

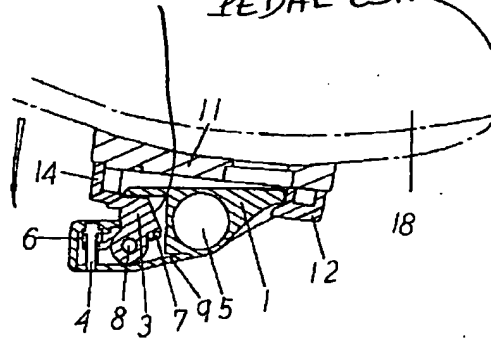


【図7】

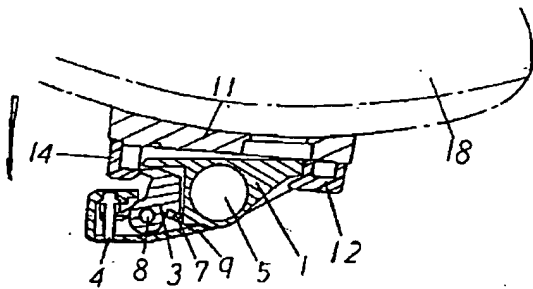


【図8】

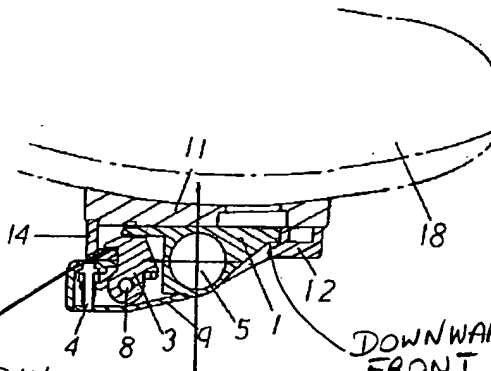
FORWARDLY FACING REAR  
PEDAL CONTROL SURFACE



【図9】



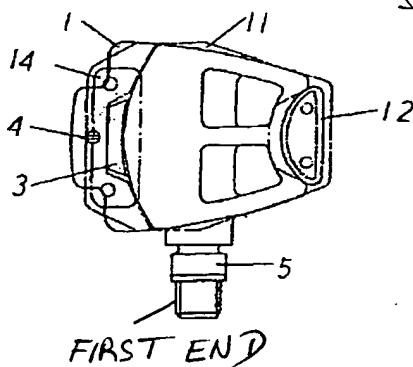
【図10】



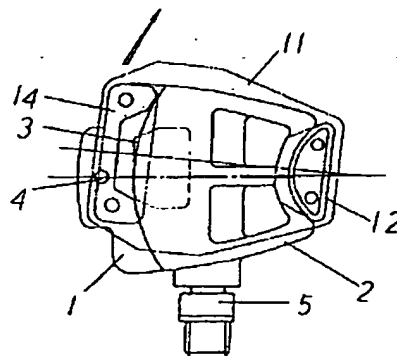
DOWNWARDLY FACING REAR  
CLEAT ENGAGEMENT  
SURFACE/SECOND PLANE

DOWNWARDLY FACING  
FRONT CLEAT ENGAGEMENT  
SURFACE/FIRST PLANE

【図11】



【図12】

【図13】 SECOND  
END